

CITY OF MILWAUKIE
ORDINANCE NO. 1845

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING ORDINANCE NO. 1704, AS AMENDED BY ORDINANCE NO. 1710, PERTAINING TO THE MILWAUKIE DOWNTOWN ECONOMIC IMPROVEMENT DISTRICT TO CHANGE THE METHOD OF ASSESSMENT AND TO CONTINUE ASSESSMENTS FOR A PERIOD OF FIVE (5) YEARS STARTING WITH THE FISCAL YEAR BEGINNING JULY 1, 1999, GRANTING PROPERTY OWNERS IN THE DISTRICT THE RIGHT TO REMONSTRATE, AND CLASSIFYING ASSESSMENTS AS NOT SUBJECT TO THE LIMITS OF ARTICLE XI, SECTION 11(b) OF THE OREGON CONSTITUTION.

WHEREAS, after notice and hearing, Ordinance No. 1704 was adopted by the City Council on May 7, 1991, and created an economic improvement district in the downtown area, determined the boundaries of the district, determined the formula for assessment of benefitted properties and assessed the benefitted properties within the district boundaries for a three year period; and

WHEREAS, Ordinance No. 1710, adopted by the City Council on July 16, 1991, amended Ordinance NO. 1704 to provide for a fiscal year collection cycle and to provide for certification of the assessments to the County Tax Assessor for collection; and

WHEREAS, the City's authority pursuant to Ordinance No. 1704, having been extended by Ordinance No. 1759 to levy assessments for the economic improvement district expires after fiscal year 1998-99; and

WHEREAS, the City Council has considered the assessment options available through the provisions of ORS 223.112 to 233.132, elects to exercise the option provided by ORS 223.118, and determines that it is in the best interest of the City to change the method of assessment to one that is not subject to the limits of Article XI, Section 11(b) of the Oregon Constitution; and

WHEREAS, ORS 223.118(2)(c) authorizes the adoption of an ordinance providing for continued assessments; and

WHEREAS, the City council finds it beneficial to the downtown area and the City as a whole to continue the assessments in order to provide funding for an economic improvement district; now, therefore;

THE CITY OF MILWAUKIE ORDAINS AS FOLLOWS:

Section 1: Section 2 of Ordinance No. 1704, as amended by Ordinance No. 1710, is further amended by adding a new subsection (f) to read as follows:

“(f) The assessment method created by subsections (a) through (e) of this section shall continue as the assessment method until June 30, 1999. Beginning July 1, 1999, as authorized by ORS 223.118, and continuing for five (5) years, the assessment method shall change to the following:

Real property within the District that is not exempt from assessment pursuant to Section 3 shall be assessed on a rate per square foot of real property basis. The total assessment for each year of the five (5) year term of this assessment authorization is \$24,000 per year.

The assessment for each property shall be based upon the following codes:

CODES	RATES
1. Unimproved & Improved Lot	1 x Base Rate x Lot Square Footage
2. One Story Commercial & Two Story with Second Level Residential	2 x Base Rate x Lot Square Footage
3. Two or more Story Commercial	3 x Base Rate x Lot Square Footage

The Base Rate for the fiscal year beginning July 1, 1999 shall be \$0.009974.

The City Manager or designee shall prepare an assessment roll containing all the assessed real property in the District and in that assessment roll shall assign one of the rate codes to each property, and calculate the assessment due. However, the property of an owner that submits a written objection at the public hearing held pursuant to ORS 223.117(1)(f) on November 17, 1998 shall not be assessed. A new owner of that property may subject the property to assessment pursuant to ORS 223.118(2). Pursuant to ORS 223.118(1)(a) a property owner that does not submit a written objection at the public hearing is considered to have made a specific request for the services provided by the District.

Prior to July 1 of each successive fiscal year, the City Manager shall recommend a Base Rate that will result in a total assessment that does not exceed \$24,000. The Council shall adopt the recommended Base Rate, or a revised rate. After the Council, by resolution, adopts a Base Rate, the City Manager, or designee, shall prepare an assessment roll containing all the assessed real property in the District and in that assessment roll shall assign one of the rate codes to each property, and calculate the assessment due. However, the property of an owner that submits a written objection at the public hearing held pursuant to ORS 223.117(1)(f) on November 17, 1998 shall not be assessed. A new owner of that property may subject the property to assessment pursuant to ORS 223.118(2).

Section 2: Ordinance No. 1704 shall be amended by adding a new Section 5 to read as follows:

“5. Collection of Funds

For assessments made for the fiscal year beginning July 1, 1999, and each year thereafter, the Finance Director is hereby directed to give notice that the assessments are declared to be due and payable within thirty (30) days from the mailing of the notice of assessment, and in the event that said assessments are not so paid, the same shall thereupon become delinquent and bear interest at the rate of nine percent (9%) per annum thereafter. Failure to pay the assessment when due is a violation of the Code subject to the general penalty established by Section 1.12.010 of the Code and the City shall proceed in the manner prescribed by the City's civil infractions process found in Chapter 1.08 of the Code."

Section 3: Ordinance No. 1704 shall be amended by adding a new Section 6 to read as follows:

"6. Disbursement of Funds by Finance Director

For assessments collected after July 1, 1999, the Finance Director shall disburse funds collected from the Milwaukie Downtown Economic Improvement District to the Milwaukie Downtown Development Association quarterly, commencing October 1, 1999, to accomplish the purposes set forth in Section 4 herein. No funds shall be distributed if the Milwaukie Downtown Development Association ceases to exist for the purposes set forth in its adopted bylaws, or if the bylaws are amended so as to be in conflict with the enabling legislation contained in ORS Chapter 223."

Section 4: Ordinance No. 1704 shall be amended by adding a new Section 7 to read as follows:

"7. Expenditure of Funds

Funds collected after July 1, 1999 shall be allocated and expended by the Milwaukie Downtown Development Association in accordance with the following condition: the filing with the City Recorder a report showing compliance with Section 4 before any funds are released. A report will be prepared annually and provided to the City Recorder by April 1 of each year that the Milwaukie Downtown Economic Improvement District is in effect. The annual report will include a current budget including an annual financial statement, scope of work, and list of accomplishments of the Milwaukie Downtown Development Association."

Section 5: Ordinance No. 1704 is amended by adding a new Section 8 to read as follows:

“If sufficient written objections to terminate the economic improvement project are not received at the public hearing held pursuant to ORS 223.117(1)(f) on November 17, 1998, then the assessments shall be levied through fiscal year 2003-2004 pursuant to the terms of this Ordinance, as amended by Ordinance No. ~~1845~~.”

Section 6: The City Council grants to property owners in the economic improvement district the notice and right to remonstrance described in ORS 223.117(2)(b) to (e) and 223.118(1)(a) to (c). Therefore:

- a. The City Manager or designee is directed to prepare and file the assessment roll for the fiscal year beginning July 1, 1999.
- b. The City Recorder is directed to mail to the owner of each lot to be assessed a notice that the method of assessment is changing and the assessments are to be continued, and stating the time and place of a public hearing at which time affected property owners may appear to support or object to the continuation of the assessment. The notice shall contain the amount of the proposed assessment for fiscal year 1999-2000. The hearing shall not be held sooner than 30 days after mailing of the notice.
- c. After hearing, the City Council shall consider such objections and may adopt, correct, modify or revise the proposed assessments.
- d. The assessments will not be made and the economic improvement project terminated when written objections are received at the public hearing from owners of property upon which more than 33 percent of the total amount of assessments are levied.

Section 7: The property assessments authorized by Ordinance No. 1704 as amended by this Ordinance No. ~~1845~~ are not subject to the limits of Article XI, Section 11(b) of the Oregon Constitution.

Within fifteen (15) days of the adoption of this Ordinance, the City Recorder shall cause to be published in a newspaper of general circulation within the City, a notice which shall:

- a. Appear in the general news section of the newspaper, not in the classified advertisements;
- b. Measure at least three (3) inches square;
- c. Be printed in a type size at least equal to 8-point type; and
- d. State that the City has adopted this Ordinance classifying the property assessment for the financing of the Milwaukie Downtown Economic Improvement District as charges not subject to the limits of Article XI,

Section 11(b) of the Oregon Constitution, that the reader may contact the City Recorder to obtain a copy of the Ordinance, and that judicial review of the classification may be sought within sixty (60) days of the date the ordinance was adopted.”

READ for the first time at the regular meeting of the City Council, City of Milwaukie, Oregon, on the 6 day of October 1998.

READ for the second time and passed by the City Council, City of Milwaukie, Oregon at the regular meeting on the 6 day of October, 1998.

Mayor


Council President

ATTEST:


City Recorder

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